

EXHIBIT 1

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October 11, 2017

RE: FREEDOM OF INFORMATION ACT REQUEST

Via E-mail and US Postal Service

Ms. Catrina M. Pavlik-Keenan
Director, Freedom of Information Office
U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
ice-foia@dhs.gov

Dear Ms. Pavlik-Keenan:

This letter constitutes a request to U.S. Immigration and Customs Enforcement (“ICE”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), submitted on behalf of Human Rights Watch (“HRW,” or “Requester”).

We are submitting an updated and expanded request to obtain data similar to the data ICE provided to HRW in response to FOIA requests such as 2014-09300 and 2015-06191. It is HRW’s understanding that all requested data exist in the Enforcement Integrated Database (EID) or other database accessible by ICE. As each item in this request has been released previously in response to FOIA requests, the ICE FOIA Office only needs to query the EID, rather than create any new records.

We request anonymized, individual-level data on every person arrested/apprehended, booked, or detained during immigration and criminal law enforcement investigations and operations conducted by ICE and U.S. Customs and Border Protection (CBP) between October 1, 2012 and the date that data production for this FOIA request commences. The data should include those who were in detention and had not yet been released as of the date data production for this FOIA request is initiated, as well as those who were in detention as of October 1, 2012 but were apprehended previous to that date.

To facilitate ICE’s search for records and the utility of the information provided, HRW requests that electronic copies of the data be provided to HRW pursuant to 5 U.S.C. § 552 (a)(3)(C), either as a series of csv files or other machine readable data format such as JSON. We also request current translation files for any fields containing coded entries (e.g., data dictionary), and detailed notes on the database query and limitations of the data, including explanations of any changes to the way any given field might have been coded over time.

For each individual, we request the following data:

US PROGRAM

Sara Darehshori, *Senior Counsel*
Jasmine L. Tyler, *Advocacy Director*
Maya Goldman, *Associate*
Clara Long, *Researcher*
Maria McFarland, *Co-Director*
Grace Meng, *Senior Researcher*
Alison Parker, *Co-Director*
Laura Pitter, *Senior National Security Counsel*
John Raphling, *Senior Researcher*
Brian Root, *Quantitative Analyst*
W. Paul Smith, *Coordinator*
Sarah St. Vincent, *Researcher*

Human Rights Watch

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*
Bruno Stagno Ugarte, *Deputy Executive Director, Advocacy*

Emma Daly, *Communications Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Olujobi, *Deputy Program Director*
Dinah Pokempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*

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Person ID variable

An anonymized ID variable to identify the individual both within a single table and across separate tables or outputs if the data is provided in separate tables (e.g., detention history table, criminal history table, demographic table, etc.). To allow for identification of the same individual over time, individuals with records across multiple fiscal years (for example, individuals detained over multiple fiscal years) should be assigned unique IDs that stay the same across separate tables associated with different fiscal years.

Arrest/Apprehension Information

1. Date of arrest/apprehension
2. Name of the state in which arrest/apprehension occurred
3. City of arrest/apprehension
4. Initial arresting/apprehending agency (e.g., ICE/CBP/non-DHS arresting agency, such as a sheriff deputy)
5. 287(g) arrest (yes/no)
6. Customs and Border Protection (CBP) arrest (yes/no)
7. Apprehension program (e.g., ERO Criminal Alien Program/Fugitive operations/Detained docket control/etc.)
8. Arrest method (e.g., CAP state incarceration/CAP federal incarceration/Located/etc.)
9. Arrestee indicated to CBP agent he or she wished to apply for asylum (yes/no)
10. Arrestee indicated to CBP agent he or she feared persecution or torture (yes/no)
11. Arrestee indicated to CBP agent fear of returning to own country (yes/no)
12. Arrestee referred to USCIS for a credible fear interview (yes/no)

Detainer Information

13. Detainer issued (yes/no)
14. Detainer prepare date
15. Detainer form type (e.g., I-247/I-247D/I-247N/I-247A)
16. Area of Responsibility that issued detainer
17. Name of detention facility/law enforcement agency to which detainer was issued
18. Detention facility code to which detainer was issued
19. Name of the state in which detainer detention facility/law enforcement agency is located
20. City of detainer detention facility/law enforcement agency
21. For those issued an I-247X, DHS has determined probable cause exists that the individual is removable based on biometric confirmation of the individual's identity and a records check of federal databases that affirmatively indicate that the individual either lacks immigration status or is removable (yes/no)
22. For those issued an I-247D, DHS has determined that the individual is an immigration enforcement priority because he/she has been convicted of an offense of which an element was active participation in a criminal street gang, or is at least 16 years old and intentionally participated in an organized criminal gang to further its illegal activities (yes/no)

23. For those issued an I-247D, DHS has determined probable cause exists that the individual is removable based on biometric confirmation of the individual's identity and a records check of federal databases that affirmatively indicate that the individual either lacks immigration status or is removable (yes/no)
24. For those issued an I-247A, DHS has determined probable cause exists that the individual is removable based on biometric confirmation of the individual's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the individual either lacks immigration status or notwithstanding such status is removable under U.S. immigration law (yes/no)

Immigration History

25. Immigration status or category at time of apprehension/arrest (e.g., Lawful permanent resident/Visa holder/EWI/etc.)
26. ICE fugitive (yes/no)
27. Previous removal (yes/no)
28. Most recent previous removal date
29. Previous return (yes/no)
30. Most recent previous return date
31. Most recent previous removal order was an expedited removal order (yes/no)
32. Date of most recent previous entry without inspection
33. Number of previous recorded entries without inspection
34. Type of visa held
35. Type of visa violation (e.g., overstay)
36. Date of original entry
37. Original immigration status/category
38. Date of last entry
39. Last Immigration status or category

Biographic Information

40. Gender
41. Race and ethnicity
42. Country of birth
43. Country of citizenship
44. Age at book-in
45. Marital status
46. Educational history (as described in the EID Privacy Impact Assessment (PIA))
47. Employment history (as described in the EID PIA)
48. US military service (yes/no)
49. Number and citizenship of children under age 18 (has previously been provided as multiple variables including "person relationship", "child citizenship country", "child gender", and "children claimed")
50. Number and citizenship of children over age 18 (has previously been provided as multiple variables including "person relationship", "child citizenship country", "child gender", and "children claimed")
51. Spouse (yes/no)
52. Spouse's country of citizenship
53. Has a US citizen parent (yes/no)

Criminal History (US charges/convictions only – not including charges/convictions in other countries)

- 54. Charged with a crime (yes/no)
- 55. For each criminal charge:
 - a. Criminal charge date
 - b. Criminal charge code (NCIC)
 - c. Criminal charge description
 - d. Criminal charge level (e.g., misdemeanor or felony)
 - e. Criminal charge category
 - f. Criminal charge jurisdiction
 - g. Criminal charge status (e.g., convicted/dismissed/pending/etc.)
 - h. Criminal conviction (yes/no)
 - i. Criminal conviction date
 - j. Criminal conviction sentence days
 - k. Criminal conviction sentence months
 - l. Criminal conviction sentence years
- 56. For the most serious criminal conviction (MSCC) as marked in EID
 - a. Conviction date final
 - b. Conviction crime code (NCIC)
 - c. Conviction crime description
 - d. Conviction crime level (e.g., misdemeanor or felony)
 - e. Conviction crime category
 - f. Conviction jurisdiction
 - g. MSCC sentence days
 - h. MSCC sentence months
 - i. MSCC sentence years
- 57. Aggravated felon (yes/no)
- 58. Aggravated felon type

Detention and Release Information (Entire detention history (each facility) information is requested)

- 59. Anonymized detention stay ID (in order to determine different custody periods for the same Person ID)
- 60. Initial book-in date and time
- 61. Initial intake Docket Control Office (DCO)
- 62. Initial intake detention facility name, city, and state
- 63. Initial intake detention facility code
- 64. Book-in date and time of each subsequent detention facility
- 65. DCO of each subsequent detention facility
- 66. Each subsequent detention facility name, city, and state
- 67. Each subsequent detention facility code
- 68. Book-out date and time of each subsequent detention facility
- 69. Order of detentions (e.g., 1, 2, 3...for 1st facility, 2nd facility, 3rd facility, etc.)
- 70. Release reason associated with each detention facility
- 71. Detention comments (e.g., explaining release to U.S. Marshal's service or other authority)

- 72. Transfer reason (if release reason = transfer)
- 73. Segregated from general population or in solitary confinement during detention (yes/no)
- 74. Segregation/solitary confinement reason (e.g., health reason/administrative reason/etc.)
- 75. Number of days in segregation/solitary confinement
- 76. For individuals who posted an ICE-issued bond:
 - a. ICE-issued bond posted date
 - b. ICE-issued bond posted amount
- 77. Departed to country (country removed to if release reason = removed)
- 78. Mandatory detention (yes/no) or the equivalent field that allows authorities to determine whether a detainee must be mandatorily detained.
- 79. Mandatory detention category (e.g., 8 USC § 1226(c), Case Category 8C/8E/8F/etc., Final order of removal, etc.)
- 80. RC threat level

Immigration Case Information

- 81. Case category
- 82. Case status
- 83. Processing disposition
- 84. Processing disposition code
- 85. Final charge code
- 86. Final charge section
- 87. Final order by court (yes/no)
- 88. Final order by court date
- 89. Final order in absentia (yes/no)
- 90. Administratively ordered removed (e.g., ordered removed without obtaining a current final order from a court) (yes/no)
- 91. Administrative order date
- 92. Reinstatement of prior removal order (yes/no)
- 93. Prior removal order date
- 94. Expedited removal (yes/no)
- 95. Immigration fugitive (yes/no)
- 96. Convicted criminal removal (yes/no)
- 97. Repeat immigration violator (yes/no)
- 98. Border removal (yes/no)
- 99. Other removable alien (yes/no)
- 100. Defenses to removal/deportation/exclusion, or application for discretionary relief filed by the noncitizen (yes/no)
- 101. Section of the federal statute under which the defense or application for relief was filed by the noncitizen
- 102. Granted legal relief from removal, deportation, or exclusion (yes/no)
- 103. Type of relief granted
- 104. Noncitizen represented by an attorney (yes/no)
- 105. E-27 filing date
- 106. E-28 filing date
- 107. Charged with illegal entry under 8 U.S.C. § 1325 (yes/no)

108. Charged with illegal re-entry under 8 U.S.C. § 1326 (yes/no)

109. Charged with smuggling under 8 U.S.C. § 1324 (yes/no)

Request for Public Interest Fee Waiver

FOIA allows for fee waivers if “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure of the information is not primarily in the commercial interest of the requester.” 6 C.F.R. § 5.11(k)(1)(i)-(ii).

Pursuant to DHS regulations, fee waivers are appropriate if four factors are satisfied: (1) the subject of the requested records must concern identifiable operations or activities of the federal government; (2) the disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be “likely to contribute” to an increased public understanding of those operations or activities; (3) the disclosure must contribute to a reasonably broad audience of persons interested in the subject—a requester’s expertise in the subject area and ability and intention to effectively convey information to the public shall be considered; and (4) the public’s understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. 6 CFR § 5.11 (k)(2)(i)-(iv).

HRW satisfies all of these factors:

1. Operations or Activities of Government

HRW’s request deals directly with the operations or activities of the federal government because it relates to policies regarding the transfers of immigration detainees between different detention facilities, jails, and prisons run by or under contract to the Department of Homeland Security. In addition, according to the ICE website, the agency is the result of “combining the law enforcement arms of the former Immigration and Naturalization Service and the former U.S. Customs Service, to more effectively enforce our immigration and customs laws ... by targeting illegal immigrants: the people, money and materials that support terrorism and other criminal activities.” One of the key methods of fulfilling this stated mission is to “manage [aliens] while in custody.” This request undoubtedly deals with the operation of DHS and ICE as it expressly deals with the agency’s mission.

2. Contributing to the Public’s Understanding

This request concerns information that is of significant value to informing the public. The information is not already in the public domain, so its disclosure will provide new and important information about the enforcement of the nation’s immigration and detention laws.

See 6 CFR §5.11 (k)(2)(ii). The information requested will increase the public’s understanding of the federal government’s operations, as noted above, because it will reveal individual and statistical information about the apprehensions and arrests, their stays in immigration detention, including transfers of immigrants between detention facilities, and their removal or release from immigration detention, which is of particular interest to the public, especially in light of the change in the presidential

administration and ongoing public debate on immigration policy.

3. Reasonably Broad Audience of Persons Interested in Subject

This factor concerns an organization's ability to disseminate information. HRW employs over 470 professionals, among them lawyers, journalists, and academics. These professionals work to uncover and report on human rights issues around the world. In order to reach the broadest audience possible, the organization publishes detailed reports on human rights issues of interest to a broad spectrum of people. These reports are made available in print and on HRW's website. Over 10.6 million unique users visited the HRW website in 2016. HRW also uses its extensive contacts in the media to draw greater attention to the issues, and HRW employees often comment on issues in the media. On average, forty citations to HRW appeared in publications around the world on each day from December 1, 2008 to December 1, 2009.¹

HRW intends to publish a report using the information provided in response to this request.

4. Enhancement of Level of Public Understanding

This factor generally deals with the availability of the information in the public domain, including how readily available information of a similar nature is to the general public. As discussed above, no comprehensive report of this nature currently exists in the public domain. Currently, there is little public understanding of the procedural challenges facing noncitizens apprehended in different ways, held in immigration detention, transferred between immigration detention facilities and released from detention in different ways. Without information from the disclosure requested, it is difficult, if not impossible, to have true public understanding of the experiences of the apprehensions, detentions and transfers of noncitizens between immigration detention facilities in navigating immigration legal proceedings. The report HRW plans to publish will enhance the public understanding of the challenges facing immigrant detainees because the breadth of analysis is not something currently available to the public.

¹ In 2016 Human Rights Watch appeared in Agence France Presse 962 times; Reuters News 1,041 times; Associated Press Newswires 595 times; All Africa 884 times; New York Times 760 times; Al Jazeera English 509 times; Washington Post 406 times; CNN 403 times; the Wall Street Journal 273 times and The Canadian Press 663 times. Additionally, Human Rights Watch has appeared in major US papers such as USA Today, The Los Angeles Times, The Daily News, The Houston Chronicle, The Philadelphia Inquirer, The San Francisco Chronicle, The Boston Globe, The Denver Post, The Arizona Republic, The Star Tribune, The Detroit Free Press, The Dallas Morning News, and The Chicago Tribune. Internationally, Human Rights Watch has been cited by Der Spiegel (Germany), The Daily Nation (Kenya), The Buenos Aires Herald (Argentina), Folha de São Paulo (Brazil), Emol (Chile), El Mundo (Mexico), El Universal (Venezuela), Express India, The Times of India, The Guardian (Nigeria), eKantipur (Nepal), Al-Ahram (Egypt), The Bangkok Post (Thailand), Haareetz (Israel), The Korea Times (South Korea), The Japan Times, The Sydney Morning Herald (Australia), The Herald Sun (Australia), Al Jazeera (Qatar), as well as hundreds of other news sources in print and online around the world.

This request meets all the statutory and regulatory requirements for a fee waiver. Consequently, we request that you disclose the requested information without charge.

* * *

We thank you for your attention in this matter and look forward to your response within 20 business days. 5 U.S.C. §552(a)(6)(A)(i).

Please respond to Brian Root, Quantitative Analyst, US Program, Human Rights Watch, 350 Sansome St #1000, San Francisco, CA 94104; email rootb@hrw.org. phone: 310-720-3458

Signed:

A handwritten signature in black ink, appearing to read "Brian Root", written over a light-colored rectangular background.

Brian Root
Quantitative Analyst, US Program Human Rights Watch